

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

NATIONAL OILWELL VARCO, L.P.

Plaintiff,

vs.

JULIO GARZA,

Defendant.

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Civil Action No. 4:22-CV-02006

**ORDER GRANTING AGREED COMPUTER
FORENSIC IMAGING & ANALYSIS PROTOCOL**

In accordance with Plaintiff National Oilwell Varco, L.P.’s and Defendant Julio C. Garza’s agreement, the Court enters this Order granting the parties’ Agreed Computer Forensic Imaging & Analysis Protocol and orders that expedited computer forensic imaging and analysis be allowed as set out herein.

Protocol for Forensic Examination of Devices

The purpose of this protocol (the “Protocol”) is to set out the provisions governing the imaging, searching for, delivery and destruction of documents, data, files, and other information obtained from Julio Garza’s devices. This Protocol has been agreed by the parties, and is not to be modified, expanded or otherwise changed without agreement of the parties or by order of the Court upon a showing of good cause.

- 1) The forensic vendor will be XXX (“XXX”) which has been agreed by the parties;
- 2) NOV agrees to pay all costs and expenses incurred in connection with this Protocol for work which is conducted by XXX;
- 3) The “Search Terms” referenced throughout are those terms on Exhibit 1 hereto;
- 4) The “File Names” referenced throughout are those file paths on Exhibit 2 hereto;
- 5) The term “Privileged” shall mean any documents or communications protected by the attorney-client privilege, attorney work product doctrine, or any other applicable privilege recognized under the Texas Rules of Evidence or the Federal Rules of Evidence.
- 6) The term “Personal” shall mean any information, data, and documents, photographs, video recordings, voice recordings, text messages, voicemails, emails, direct messages,

no matter the format or file type, which is not or does not contain (i) NOV information, data or documents, or communications with NOV employees; (ii) information, data or documents pertaining to engineering or the solar energy industry; (iii) NOV information, data or documents which originated from a third-party that NOV retained; or (iv) any communications by, between, or on which Garza was cc'd with any third-party that NOV retained about NOV information, data or documents; or (v) Array Information.

- 7) The term "Array Information" shall mean any (i) Array information, data or documents with created date or last edit date on or after May 9, 2022, (ii) any communications with Array employees sent, received or dated on or after May 9, 2022; (iii) Array information, data or documents with created date or last edit date on or after May 9, 2022 which originated from a third-party that Array retained; or (iv) any communications by, between, or on which Garza was cc'd with any third-party that Array retained about Array information, data or documents which communications were sent, received or dated on or after May 9, 2022.
- 8) To the extent that disputes arise with respect to carrying out the terms of this Protocol, the Parties shall meet and confer in an effort to resolve those disputes. The existence of one or more disputes shall not be grounds to change or defer the timetables set forth herein.
- 9) The USB electronic storage devices.
 - a. Garza will cause the forensic images of the following devices (collectively, the "USB Drives") to be turned over from FTI Consulting to XXX for searching as set forth herein on or before July 19, 2022:
 - i. a grey/blue and silver USB with slide-on lid (has "Stress Engineering Services" label);
 - ii. a black and metallic flip drive (has "PROGRESSION www.progressiontech.com" label); and
 - iii. a black and dark grey USB with a slide-on lid (the "Subject Device").
 - b. On or before July 22, 2022, XXX will examine the forensic image of each of the USB Drives, and will conduct a search of the electronic files on each of the forensic images of the USB Drives for the Search Terms and the File Names with a creation date or a last edit date of January 1, 2022 to present.
 - c. If any files on the USB Drives are discovered from the File Names search, FTI Consulting will turn over those identified devices to XXX, and any files which XXX locates on the USB Drives from the File Names search will be forensically wiped and destroyed on the USB Drives by XXX, which will provide a certificate of destruction, if any, along with a list of files destroyed to counsel for both Plaintiff and Defendant on or before July __, 2022.

- d. With regard to any files which XXX locates on the forensic images of the USB Drives from the Search Terms search, on or before July 22, 2022, XXX will produce a file list and a copy of those files to Defendant's counsel. Within three calendar days of receipt of the file list and the files, Defendant's counsel may designate each file as Personal, Array Information, Privileged, Confidential or Highly Confidential – Attorney's Eyes Only. Within two calendar days from Defendant's counsel's designation, XXX shall produce to NOV's counsel a file list and a copy of all files, except copies of the files designated as Personal, Array Information, or Privileged, which XXX located during XXX's search. The parties will confer in good faith regarding further steps or destruction of files located from the Search Terms search, if any. Any destruction or further steps shall be conducted by July 30, 2022.

10) Personal iPhone 11 ("Personal iPhone").

- a. On or before July 19, 2022, Garza will cause to be turned over from FTI Consulting to XXX a copy of an iPhone file listing report from Garza's Personal iPhone for those files with a creation date or last edit date January 1, 2022 to June 3, 2022.
- b. On or before July 22, 2022, XXX will search the Personal iPhone file listing report using the Search Terms and the File Names for those files with a creation date or a last edit date of January 1, 2022 to present.
- c. If any documents are located from the searches of Search Terms or File Names in (b), Garza will cause to be turned over from FTI Consulting his Personal iPhone to XXX on or before July 25, 2022, and such documents will be forensically wiped and destroyed on the Personal iPhone by XXX, which will provide a certificate of destruction, if any, along with a list of files destroyed to counsel for both Plaintiff and Defendant on or before July __, 2022.

11) Asus Personal Laptop ("Personal Computer").

- a. On or before July 19, 2022, Garza will allow remote access to his Personal Computer to allow for the examination set forth herein.
- b. On or before July 22, 2022, XXX will conduct an examination limited to the artifacts necessary to determine only whether the Subject Device was connected to the Personal Computer after April 1, 2022. If XXX does not affirmatively determine from such examination that the Subject Device was attached to the Personal Computer after April 1, 2022, then XXX will conduct no further searches on the Personal Computer (and, for clarity, steps 11(c) – (e) of this Protocol will not be undertaken).
- c. If XXX affirmatively determines from its examination in (b) that the Subject Device was attached to the Personal Computer after April 1, 2022, then, on or before July 22, 2022, XXX will create a forensic image of the Personal Computer, and will conduct a search of the user-created electronic files saved to the Personal

Computer using the Search Terms and File Names for those files with a creation date or a last edit date of January 1, 2022 to present.

- d. Any files which XXX locates on the Personal Computer from the File Names search will be forensically wiped and destroyed on the Personal Computer by XXX, which will provide a certificate of destruction, if any, along with a list of files destroyed to counsel for both Plaintiff and Defendant, on or before July __, 2022.
- e. With regard to any files which XXX locates on the Personal Computer from the Search Terms search, on or before July 22, 2022, XXX will produce a file list and a copy of those files to Defendant's counsel. Within three calendar days of receipt of the file list and the files, Defendant's counsel may designate each file as Personal, Array Information, Privileged, Confidential or Highly Confidential – Attorney's Eyes Only. Within two calendar days from Defendant's counsel's designation, XXX shall produce to NOV's counsel a file list and a copy of all files, except copies of the files designated as Personal, Array Information, or Privileged, which XXX located during XXX's search. The parties will confer in good faith regarding further steps or destruction of files located from the Search Terms search, if any. Any destruction or further steps shall be conducted by July 30, 2022.

12) Hotmail.com account.

- a. On or before July 19, 2022, Garza shall cause to have provided from FTI Consulting to XXX those emails dated January 1, 2022 to June 3, 2022 from the forensically preserved contents of Garza's personal Hotmail.com account
- b. On or before July 22, 2022, XXX shall search the forensically preserved emails from Garza's personal Hotmail.com account (emails January 1, 2022 to June 3, 2022) for NOV documents using the File Names.
- c. Any files which XXX locates on the personal Hotmail.com account from the File Names search will be forensically wiped and destroyed by XXX from the Hotmail.com account, which will provide a certificate of destruction, if any, along with a list of files destroyed to counsel for both Plaintiff and Defendant, on or before July __, 2022.

13) Dropbox and iCloud account.

- a. On or before July 19, 2022, Garza shall cause to have provided to XXX the username and password information allowing XXX access to his personal Dropbox and iCloud accounts.
- b. On or before July 22, 2022, XXX shall search all user-created files with a creation date or last edit date January 1, 2022 to June 3, 2022 on Garza's Dropbox and iCloud account for NOV documents using the File Names.

- c. Any files which XXX locates on the Dropbox and iCloud account from the File Names search will be forensically wiped and destroyed by XXX, which will provide a certificate of destruction, if any, along with a list of files destroyed to counsel for both Plaintiff and Defendant.
- 14) XXX will sign the Protective Order in the case, on or before July 19, 2022.
- 15) XXX will conduct additional forensic analyses consistent with industry practice on the Subject Device and/or the forensic image of the Subject Device to determine, to the extent possible, whether it was plugged in to any non-NOV issued electronic device after April 1, 2022, and if so, to the extent possible, what device(s) the Subject Device was plugged into.
- 16) XXX will conduct additional forensic analyses consistent with industry practice on the Subject Device and/or the forensic image of the Subject Device to determine when any of the files listed on Exhibit 2 hereto were last accessed, modified, or deleted.
- 17) All *ex parte* communication with XXX is prohibited. Communications with XXX regarding the conduct, implementation and completion of this Protocol shall be made jointly by, or by copy to, Plaintiff and Defendant. It is expressly understood that XXX is an independent third-party and no privileges may attach to any communications between XXX and any party. Nothing herein should limit any protections under Fed. R. Civ. P. 26 with regard to other communications with experts or potential experts.
- 18) Nothing shall prevent XXX from delivering examination results on a rolling basis.
- 19) Each device will be returned to Mr. Garza upon completion of the protocols set forth herein with regard to each device. Devices shall be returned to Mr. Garza on a rolling basis if possible.
- 20) Within seven (7) days of any Final Judgment in this case, all forensic images and other data created or transferred under this Protocol shall be destroyed by the party in possession of same. Counsel for the parties may keep copies of the lists of documents destroyed which are provided hereunder for their records.
- 21) All username and password information provided hereunder will be kept confidential. Within seven (7) days of any Final Judgment in this case, all username and password information provided to any party will be destroyed by the party in possession of the same.

DATED: July ___, 2022.

U.S. DISTRICT COURT JUDGE

EXHIBIT 1: Search Terms

1. “KiloNewton”
2. “ KN ” or “ kn ” or “ kN ”
3. “KiloNewton LLC”
4. “@kilonewtonllc.com”
5. “Williamson”
6. “John Williamson”
7. “Dr. Simma”
8. “Krishna”
9. “CPP”
10. “CPP Inc.”
11. “@cppwind.com”
12. “Underwriters Laboratory”
13. “@ul.com”
14. “Intertek”
15. “@intertek.com”
16. “lumped sum model”
18. “parameter”
19. “LSM”
21. “HALT”
22. “highly accelerated life-cycle testing”
23. “1P tracker”
24. “2P tracker”
25. “AmberTrack”
26. “Corosolar”
27. “Sunlink “
28. “central drive”
29. “purlins”
30. “damper”
31. “damping”
32. “modal analysis”
33. “novatrack”
34. “wind load”
35. “wind tunnel”
36. “wind testing”
37. “dynamic amplification factor”
38. “DAF”
39. “15595”
40. “1857339-CAL”
41. “ANSYS” or “Ansys”
42. “RSA”
43. “Robot Structural Analysis”
44. “SOL-28-21305”
45. “14390”
46. “NOV Solar Tracker”

- 47. “NOV tracker”
- 48. “Amber”
- 49. “NOV Rig Technologies”
- 50. “National Oilwell Varco”
- 51. “@nov.com”
- 52. “Array”
- 53. “@arraytechinc.com”
- 54. “CFD”
- 55. “balance of system”
- 56. “1P” or “1IP” or “one in portrait”
- 57. “2P” or “2IP” or “two in portrait”
- 58. “solar array”
- 59. “solar tracking”
- 60. “solar racking”
- 61. “racking”
- 62. “tracker”
- 63. “tracker study”
- 64. “bloom”
- 65. “butterfly”
- 66. “prototype”
- 67. “STC”
- 68. “Springett Technology Center”
- 69. “Geopro”
- 70. “Geo”
- 71. “Techtrack”
- 72. “Confidential”
- 73. “Secret”
- 74. “Proprietary”
- 75. “steel”
- 76. “system weight”
- 77. “structure”

EXHIBIT 2: File Names

1. NOV-Task Summary and Outcomes.pdf
2. CPP15595 NOV1PTrackerStudy REP_SOLDYN_R00D00.pdf
3. DAF Spreadsheet and Figures.zip
4. AISC 360-10 (Direct Analysis Method).pdf
5. p325-17aw.pdf
6. EXTERNAL_Re_Lump Sum Calculator.msg
7. Example of Period.png
8. Modeling Solar Trackers Dynamic Response and Properties V2 release.pdf
9. Modeling Solar Trackers Dynamic Response and Properties V1 release.pdf
10. Lump Sum Parameter Model_NOV_release2.xlsx
11. 15595_StaticTables_NOV1P_Add04.xlsx
12. Cantilever - 45deg Worst Case DownForce (Done).xmcd
13. Cantilever - 45deg Worst Case Uplift (Done).xmcd
14. Clips - 0deg Survival.xmcd
15. LiXXXng-N-Blooming Tool.xmcd
16. Post Moment - 0deg Survival (Done).xmcd
17. Post Moment - 45deg Worst Case DownForce (Done).xmcd
18. Post Moment - 45deg Worst Case Uplift (Done).xmcd
19. Post Normal - 0deg Survival (Done).xmcd
20. Post Normal - 45deg Worst Case DownForce (Done).xmcd
21. Post Normal - 45deg Worst Case UpLift (Done).xmcd
22. Purlins - 0deg Survival.xmcd
23. Purlins - 45deg Worst Case DownForce.xmcd
24. Purlins - 45deg Worst Case UpLift.xmcd

25. Solar Panel Analysis - Set Up Data.xmcd
26. TopHat-SectionProp.xmcd
27. Cantilever - 0deg Survival (Done).xmcd
28. 1IP Solar Rough Costing.xlsx
29. 1IP Structural Analysis R00.xlsx
30. 2IP Solar Rough Costing.xlsx
31. 2IP Solar Rough Costing-PerMeeting.xlsx
32. 6 Span Indeterminate Beam Calculator.xlsx
33. 130MW Pile Cost.xlsx
34. 15595 Static Loads Tables R00D00.xlsx
35. BloomWinchCableStudy.xlsx
36. CableStudy Rev00.xlsx
37. CableStudy Rev01.xlsx
38. DamperAnalysis.xlsx
39. Drive Calcs - 1IP.xlsx
40. Drive Calcs - JCG.xlsx
41. InverterSizing.xlsx
42. Lump Sum Parameter Model_NOV_release.xlsx
43. MotorCalcs.xlsx
44. Pile Loads-1IP-Concrete.xlsx
45. Pile Loads-1IP-Driven.xlsx
46. PurlinBreakDown-RollerDie.xlsx
47. Solar Panel Forces - CPP Comparision & 2D CFD.xlsx
48. Tracker Calcs - Good Copy - After Pluck Test 3 - JC 6.xlsx
49. Tracker Calcs - Good Copy - After Pluck Test 3.xlsx

50. Tracker Calculator REV07.xlsx
51. TrackerMassTonPerMW.xlsx
52. TrackerSpacingCalculator.xlsx
53. Costing For 2IP-Solar.xls
54. D:\Solar\Analysis\Archive\WinchSpeedAnalysis.xmcd
55. D:\Solar\Analysis\Archive\TorqueAnalysis-SolarPanel.xmcd
56. D:\Solar\Analysis\Archive\SunPositionCalculator.xlsm
57. D:\Solar\Analysis\Archive\SolarPanelFrameAnalysis - CPP Loads.xlsx
58. D:\Solar\Analysis\Archive\SolarPanelFrameAnalysis - CFD Loads.xlsx
59. D:\Solar\Analysis\Archive\Solar Panel Forces.xlsx
60. D:\Solar\Analysis\Archive\Solar Panel Forces - CFD Loads.xlsx
61. D:\Solar\Analysis\Archive\Solar Panel Analysis_JMM.xmcd
62. D:\Solar\Analysis\Archive\Solar Panel Analysis.xmcd
63. D:\Solar\Analysis\Archive\Solar Panel Analysis - Set Up Data.xmcd
64. D:\Solar\Analysis\Archive\Solar Calcs Variable Replace.xmcd
65. D:\Solar\Analysis\Archive\Shear and Bending Moment Diagrams.xmcd
66. D:\Solar\Analysis\Archive\Purlins - Worst Case Uplift.xmcd
67. D:\Solar\Analysis\Archive\Purlins - Worst Case Downforce.xmcd
68. D:\Solar\Analysis\Archive\Purlins - 0deg Survival.xmcd
69. D:\Solar\Analysis\Archive\Post Normal - Worst Case Uplift.xmcd
70. D:\Solar\Analysis\Archive\Post Normal - Worst Case Downforce.xmcd
71. D:\Solar\Analysis\Archive\Post Normal - 0deg Survival.xmcd
72. D:\Solar\Analysis\Archive\Post Moment - Worst Case Uplift.xmcd
73. D:\Solar\Analysis\Archive\Post Moment - Worst Case Downforce.xmcd
74. D:\Solar\Analysis\Archive\Post Moment - 0deg Survival.xmcd

75. D:\Solar\Analysis\Archive\Pile Loads.xmcd
76. D:\Solar\Analysis\Archive\Cantilever - Worst Case Uplift.xmcd
77. D:\Solar\Analysis\Archive\Cantilever - Worst Case Downforce.xmcd
78. D:\Solar\Analysis\Archive\Cantilever - 0deg Survival.xmcd
79. D:\Solar\Analysis\Archive\Book1.xlsx
80. D:\Solar\Analysis\Archive
81. D:\Solar\1IP\Lump Sum Parameter Model_NOV_release2.xlsx
82. D:\Solar\1IP\15595_StaticTables_NOV1P_Add04.xlsx
83. D:\Solar\1IP\15595 NOV Tracker Study ADD04 Gap Adjustment Factors.xlsx
84. D:\Solar\1IP\DAF Spreadsheets R01.zip
85. D:\Solar\2IP\14390 DAF Tables.xlsx
86. D:\Solar\2IP\14390 Tables - Client Copy.xlsx
87. D:\Solar\Documents\ASCE_7-10.pdf
88. D:\Solar\Documents\ASCE 7-16-Unsecure.pdf
89. D:\Solar\1IP\CPP15595 NOV1PTrackerStudy REP_SOLSTA_R00D00.pdf
90. D:\Solar\1IP\CPP15595 NOV1PTrackerStudy REP_SOLDYN_R00D00.pdf
91. D:\Solar\2IP\CPP14390_NOVSolarTracker_REP_SOLINS_R00D00.pdf
92. D:\Solar\2IP\CPP14390_NOVSolarTracker_REP_SOL_R01D00.pdf
93. D:\Solar\2IP\CPP14390_NOVSolarTracker_REP_SOL_R00D00.pdf
94. D:\Solar\2IP\CPP14390_NOVSolarTracker_Dynamics_REP_SOL_R00D00.pdf
95. D:\Analysis Tools\D7A1EA46.tmp